

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

PATRICIA THOMPSON, as Personal)	
Representative of the Estate of)	
MARCONIA LYNN KESSEE)	
)	
Plaintiff,)	
)	
vs.)	Case No. 19-CV-113-SLP
)	
NORMAN REGIONAL HOSPITAL)	
AUTHORITY, d/b/a NORMAN REGIONAL)	
HOSPITAL, a public trust, <i>et al.</i> ,)	
)	
Defendants.)	

**DEFENDANTS TURN KEY HEALTH CLINICS, LLC, AND
CLAYTON RICKERT’S JOINT NOTICE OF SUPPLEMENTAL AUTHORITY**

COME NOW Defendants Turn Key Health Clinics, LLC, and Clayton Rickert (hereinafter “Defendants”), and respectfully notify this Court of supplemental authority, *Nayeb Yazdi v. Board of County Commissioners, et al.*, Case No. 119,652, OK CIV APP unpublished (Oct. 14, 2021) (the formal opinion attached hereto as Exhibit 1), which is dispositive of and/or pertinent to certain legal issues in Defendant Turn Key’s, and Defendant Rickert’s, separate Motions for Summary Judgment, filed herein on July 1, 2021. See Doc. 261, pp. 23-7; See Doc. 262, pp. 29-33.

On May 20, 2021, the District Court of Oklahoma County, in *Nayeb Yazdi v. Board of County Commissioners, et al.*, Case No. CJ-2020-4425, issued an *Order Granting Turn Key Health Clinics, LLC’s Motion to Dismiss* finding that “Turn Key Health Clinics, LLC

is entitled to immunity from tort liability under the Oklahoma Governmental Tort Claims Act (GTCA) as Turn Key is considered an ‘employee’ for purposes of the OGTCa pursuant to *Barrios v. Haskell Cty. Pub. Facilities Auth.*, 2018 OK 90, ¶5, 432 P.3d 233 any [sic] by virtue of §§ 152(7)(b)(7), 153(a), and 155(25) of the GTCA.”

On appeal, the Court of Civil Appeals of the State of Oklahoma, Division IV, issued its opinion filed October 14, 2021. There the court reasoned that “[i]n *Barrios*...the Supreme Court [of Oklahoma] stated ‘generally speaking, the staff of a healthcare contractor at a jail are ‘employees’ who are entitled to tort immunity under the GTCA by virtue of sections 152(7)(b), 153(A), and 155(25).’ Here, Nayebyazdi’s petition alleged Turn Key contracted with Oklahoma County to provide medical services to inmates at the jail. Accepting the allegations of the petition as true, **Turn Key is immunized from liability under the GTCA.**” *Nayebyazdi*, (emphasis added).

Defendants submit that this statement by the Court of Civil Appeals is crucially persuasive and pertinent to the issue of OGTCa immunity as applicable to a private healthcare contractor and its employees, such as Turn Key and Rickert, as it further supports the growing precedent of finding in favor of immunity established by *Barrios*, 432 P.3d at 236, n.5; *Prince*, 2019 WL 238153, at *9; and *Birdwell*, 2019 WL 1130484, at *10.

Although this appellate decision in *Nayebyazdi* is not from the Oklahoma Supreme Court, it reinforces this Court’s prior statement that “the best prediction as to how the Oklahoma Supreme Court would decide the issue of whether the GTCA requires dismissal

of Plaintiff's negligence-based claims against...Turn Key is provided by *Barrios...*" Doc. 84, p.20.

WHEREFORE, Defendants pray that their Motions for Summary Judgment be granted, as the arguments contained therein align with a growing and consistent precedent that Defendants are cloaked with immunity through the Oklahoma Governmental Tort Claims Act.

Respectfully submitted,

s/Austin J. Young

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CERTIFICATE OF SERVICE

I hereby certify that, on the 18th day of November, 2021, a true and correct copy of the above and foregoing was electronically transmitted to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to all ECF registrants who have appeared in this case.

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s/Austin J. Young

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